



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

MAY 11, 2004

PRESENT: Acevedo, Benich, Escobar, Lyle, Mueller

ABSENT: Engles, Weston

LATE: None

STAFF: Planning Manager (PM) Rowe, Senior Engineer (SE) Creer, Senior Planner (SP) Linder, Assistant Planner (AP) Plambeck, Associate Planner (AP) Tolentino, and Minutes Clerk Johnson

Chair Mueller called the meeting to order at 7:01 p.m., asking SP Linder to lead the pledge of allegiance to the flag.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Mueller opened the public hearing.

City Manager Ed Tewes spoke to the Commissioners, reminding that CDD Bischoff had officially retired (commenting that most had attended the retirement party). Mr. Tewes said that the recruiting process for a replacement had commenced and it is expected the recruitment period would be open for 90 days. PM Rowe has been named the interim CDD and is meeting with the City Manager weekly in that capacity. Mr. Tewes indicated that one of this Assistant City Managers will be available to work with CDD Rowe. Mr. Tewes also said that Mr. Bischoff will continue working for one to two days per week, continuing with work on the Urban Limit Line and will take the lead in representing the City on the work with the Coyote Valley Steering Committee. Mr. Tewes concluded by inviting the Commissioners and the audience (public) to the May 19 meeting of the Steering Committee 5 p.m. workshop here in City Hall. He advocated that all those concerned in the South County region to attend.

Commissioner Lyle asked if Mr. Bischoff is expected to continue to work on the

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Certification of the Housing Element? Mr. Tewes responded affirmatively, adding that should be completed soon.

Commissioner Benich noted that the next meeting of the Coyote Valley Steering Task Force will be May 15, beginning at 9 a.m. to 3 p.m. in San Jose. Commissioner Benich commented, "I have people saying to me all the time 'I don't know anything about it.' Well, this is the meeting to attend!" He, too, urged the general public to be present at the meetings.

With no one present wishing to address matters not appearing on the agenda, the public hearing was closed.

MINUTES:

APRIL 27,
2004

COMMISSIONERS LYLE/ACEVEDO MOTIONED TO APPROVE THE APRIL 27, 2004 MINUTES, WITH THE FOLLOWING MODIFICATIONS:

Page 11, paragraph 4: (add) ...better *due to the traffic calming effort that the narrower street provides for.*

Page 13 Public Facilities, line 1: *inability*

Page 15, paragraph 12: ~~angled back up~~ *having parking (especially back to back parking) on both sides of interior streets in R3 projects. (R3 has 1 point)*

THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, MUELLER; NOES: NONE; ABSTAIN: ESCOBAR; ABSENT: ENGLES, WESTON.

NEW BUSINESS:

1) DAA-03-01:
CHRISTEPH-
KAMANGAR/
TANSY

A request to amend the development agreement for a three-lot single-family residential subdivision on a 1.58-acre site located south of Llagas Rd., between Hale Ave. and Waugh Dr., at 18200 Christeph Dr. in an R-1 (20,000) zoning district. This project originally received approval under Measure "E". Approval of the development agreement would extend the timeline for final map approval by one year.

PM Rowe presented the staff report, giving the history and background of the matter, stating there had not been adequate information received to provide basis for evaluation of the proposal.

Chair Mueller opened the public hearing.

Lucinda Lawson, 18100 Christeph Dr., told Commissioners that she wanted to make sure her letter of May 5 indicated her interest as a neighbor in the development. Ms. Lawson stressed that she wants to ensure that the residents of Christeph Dr will still have access to drive over the bridge over the creek. Ms. Lawson said she was also concerned that the trees be retained at the location.

Armen Hovanessian, 18221 Christeph Dr., indicated concern that the applicant has 'had a permit for 10 years, but nothing has happened'. "Why not," he asked. "What problem does the development have? We have heard all imaginable answers over the past 10 years."

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PM Rowe explained the (creek) channel improvements that are being considered. "The Santa Clara Water District has an easement, but needs to purchase the right-of-way before the creek improvements required of this project can be completed.

Mr. Hovanessian asked if the creek channel is being moved? PM Rowe explained the plan and the procedures necessary to accomplish the plan.

Chair Mueller urged Mr. Hovanessian to talk with staff for further clarification.

With no one indicating an interest to address the matter further, Chair Mueller closed the public hearing.

COMMISSIONERS ACEVEDO/ESCOBAR MOTIONED TO TABLE THE MATTER OF DAA-03-01: CHRISTEPH-KAMANGAR/TANSY. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.

OLD BUSINESS:

**2) ZA-04-01/
SD-04-01/
DA-04-01:TILTON-
GLENROCK**

A request to amend the precise development plan for the Capriano subdivision located on the east side of Hale Ave., south of Tilton Ave. The proposed amendment would allow for 24 single family detached homes. Also requested is the approval of a 24 lot subdivision map and development agreement for a 27 acre portion of the 67 acre Capriano project.

SP Linder gave the staff report, giving the background of the project and reminding that at the March 23 Commission meeting, specific direction regarding the preparation of an RPD was given to the applicant. SP Linder said the plan has been revised, as she explained the current request. "Based on revised plan," SP Linder stated, "staff still has concerns regarding the BMRs: there has been a significant reduction in the square footage, resulting in alarm about the quality. The smaller square footage will reduce the number of bedrooms from four to three. With BMRs, the City has a waiting list for homes with three or four bedrooms."

SP Linder further explained that the revised site plan has 24 lots. She pointed out various lots which indicate the building of BMRs, she also indicated that 12 of the 36 2004-05 allotments had already been used. The 36, 2004-05 allocations require a total of 4 BMRs, she said. For this phase, 8 BMR's are shown SP Linder said, staff recommends four of the BMRs be designated as moderate rates units. SP Linder said staff is asking the Commission to give direction to the applicant to have the RDCS moderate rate unit commitment met. SP Linder continued by saying that because of the lack of moderate rate units, the refusal to address the overall master plan, the reduction of size of the BMRs and the resultant project point reduction, staff does not recommend approval of the revised plan; "Staff feels the project is being piece-mealed, is inconsistent with the March 23 Commission direction and is contrary to what was presented and scored in the 2002 RDCS application.

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Commissioner Benich, referencing the staff report, said there was confusion with the statement 'the applicant having different meeting items 3 – 6 – 8 – 10, these are no longer applicable'.

SP Linder explained that these items are dealing with the R-2 area which has been excluded from the current RPD plan.

Commissioner Benich said he understood the primary concern is that of the moderate rate units. SP Linder indicated this to be so, adding that the reduction in size of the BMRs and the lack of a project master plan continues to be of concern.

Commissioner Acevedo called attention to the last paragraph of the staff report, specifically – lots 21 and 22 (SP Linder explains these have been re-numbered from the original lots numbered 14 and 15). Commissioner Acevedo continued, asking since the two lots look similar to lot 15, why are there conditions only on lot 15?

SP Linder responded that there is a concern with the narrowness of the BMR lots. She explained that all that would be visible from the street is a garage door. Staff suggested the entire width of lot 15 be widened to a minimum of 40 feet. Answering questions, SP Linder clarified that lot 14 on some of the maps is lot 22 on current (revised) plan.

Commissioner Acevedo asked about the loss of points mentioned in the staff report, questioning what the original score had been? What project has the 'next lower' score from the 2002 RDCS competition, and how this information might affect the application now?

Chair Mueller stated that the Planning Commission had historically not allowed reduction of a project's score due to revision to the project.

Commissioner Acevedo asked, in regards to BMRs versus moderates in this project, whether staff was suggesting having moderates instead of BMRs?

SP Linder informed the Commission that there is double number of BMRs proposed (eight versus four) and she explained that four moderates are needed for this phase of the project. SP Linder clarified staffs recommendation that four of the eight BMRs be changed to moderate rate units within this phase.

Commissioner Acevedo discussed the change from two-story to single-story dwellings for the BMRs.

Chair Mueller opened the public hearing.

Rocke Garcia, 1000 Old Quarry Road, San Jose, said he didn't want to give the appearance of 'piece-mealing' a project. He gave an overview of this amendment to the application. Mr. Garcia insisted this would actually be 35 units not 36. At Saffron and Curry, Mr. Garcia explained that he was 'borrowing a BMR for this phase, which is for 26 units'. Mr. Garcia distributed a map as he spoke of the changes resultant from the development restrictions of the insurance industry requisites. "When we submitted in January 2004, when we received allotments, we wanted to discuss the balance of

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project, but then talks of an extension of Ordinance 1641 dealing with the detached units has been put into place. The Ordinance 1641, as currently written, will not allow for the creation of z-lots won't work here," he said. Mr. Garcia then went on to speak of his need for an extension of the project, as the z-lots couldn't be worked around.

Mr. Garcia spoke on:

- the proposed BMRs;
- square footages
- single story unit,
- size of the bedrooms
- disagreement with the loss of points

Mr. Garcia says there is no penalty for a 3-bedroom single-story house, offering the comparison to the Warmington construction, saying those are 'reasonably close'.

Discussion ensued between the Commissioners and Mr. Garcia regarding:

- moderate rates units/loss of points
- moderate unit purchase income level requirements
- concerns about the proposed locations of the moderate rate units and the BMRs
- suitability of various lots better for moderates versus BMRs
- square footage requirements/measurements for BMRs
- potential for change in housing types ~ change in scoring
- confusion as to the total number of units
- number of BMRs required for the total project (and specifically this phase)
- inability to have 'z-lots' for single story construction
- need for an RPD on entire project

Barton Hechtman, 848 The Alameda, San Jose, representing Glenrock Builders, advised the Commissioners it is difficult for home builders to meet the time frames of Measure P. Mr. Hechtman questioned the zoning requirements for the project in relation to BMRs, saying his company could understand the need for two more moderate rate units and indicating willingness to plan for and complete two moderates in this phase (but not on lots 21 & 22 but 25 & 26), as there was intent to use those two smaller lots for moderates; keeping the lots on Saffron as BMR lots. Mr. Hechtman said he feels that with this plan, there would be further physical separation of the BMRs

Commissioner Lyle emphasized that the applicant needs to look at each phase in relation to the total project, as he shared the calculation numbers for the BMR and the moderate units.

Mr. Hechtman said if the project owes two more BMRs, those will be done.

Commissioner Lyle said that there needs to be ten percent BMRs and moderate rate units in the R1 area, you cannot move them all into the R2.

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Mr. Hechtman assured the Commissioners that he and the applicant are committed to meeting all the requirements of the City.

Mr. Hechtman discussed the following with the Commissioners:

- need of confirmation of income levels for persons purchasing the moderate and BMR units (Chair Mueller clarified that 120% of median income level is necessary for moderate income levels for the housing element)
- need for a precise plan with an RPD overlay for the entire project
- need to modify lot lines to meet moderate level unit requirements
- commitment of BMRs
- need for 'tweaking' the size of units
- clarification of the modification of the tentative map

With no others indicating a wish to speak to the matter, the public hearing was closed.

COMMISSIONER ACEVEDO OFFERED RESOLUTION NO. 04-31b, RECOMMENDING APPROVAL OF AN AMENDMENT TO A RESIDENTIAL PLANNED DEVELOPMENT ON AN 67-ACRE SITE LOCATED ON THE EAST SIDE OF HALE AVE., SOUTH OF TILTON AVE. ADJACENT TO THE WEST OF THE RAILROAD TRACKS, NOTING THE REQUIRED FINDINGS AND CONDITIONS AND WITH THE FOLLOWING MODIFICATIONS:

SECTION 7 #13: Ten percent of the moderate rate units shall be located within the R-1 12,000 area on lots 21, 22, 25 and 26.

Delete # 15 as it duplicates item 8.

Add SECTION stating: "No further subdivision of the 67-acre Capriano/Glenrock site will be processed or approved until all remaining R-1 12,000 & R-2 area are included within an approved precise development plan.

Add SECTION requiring: Any lot size modifications included with this phase (24 lot phase/2004-05 allotments) that cause the project to fall below the 12,000 sq. ft. lot average and median zoning requirement will be made up for in future phases.

COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.

COMMISSIONER ESCOBAR OFFERED RESOLUTION NO. 04-32b, INCLUDING THE FINDINGS AND CONDITIONS CONTAINED THEREIN, APPROVING A REQUEST FOR A 24-LOT SINGLE-FAMILY RESIDENTIAL SUBDIVISION ON AN 8.7-ACRE PORTION OF LAND LOCATED ON THE EAST SIDE OF HALE AVE., SOUTH OF TILTON AVE. ADJACENT TO THE WEST OF THE RAILROAD TRACKS, INCLUDING THE FOLLOWING MODIFICATIONS:

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Standard Conditions: page 20, add:

5. Staff may approve of minor lot size and dimension changes to the moderate rate lots. Any lot size modifications included with this phase (24 lot phase/2004-05 allotments) that cause the project to fall below the 12,000 sq. ft. lot average and median zoning requirement will be made up for in future phases.

THE MOTION WAS SECONDED BY COMMISSIONER BENICH AND PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.

COMMISSIONER ESCOBAR OFFERED RESOLUTION NO. 04-33b, INCLUDING THE FINDINGS AND CONDITIONS CONTAINED THEREIN, APPROVING A REQUEST FOR A DEVELOPMENT AGREEMENT FOR A 24 UNIT SINGLE-FAMILY RESIDENTIAL SUBDIVISION ON AN 8.7-ACRE PORTION OF LAND LOCATED ON THE EAST SIDE OF HALE AVE., SOUTH OF TILTON AVE. ADJACENT TO THE WEST OF THE RAILROAD TRACKS, INCLUDING THE FOLLOWING DEVELOPMENT AGREEMENT MODIFICATIONS:

Page 8, modify subparagraph (l) (i) to read as follows:

(l) Property Owner agrees to include the following Affordable Housing features in the development:

- (i) The Property Owner shall provide at least ~~three~~ two (2) of the units for participation in a Below Market Rate (BMR) for sale program approved by the Community Development Department. The BMR's shall be a minimum of ~~1450~~ 1275sq. ft., 4 3 bedrooms with 2 ½ baths. The BMR units shall be approved by the City of Morgan Hill Planning Commission and Site and Architectural Review process. ~~The BMR unit shall be under construction and the framing inspection passed prior to the issuance of the 20th building permit.~~**

Page 9: Re-label second subparagraph (l); re-label subsequent sections accordingly. Modify (l) i as follows:

(l)(m) Property Owner agrees to include the following housing types in the development:

- (i) ~~3~~ 4 Moderate Rate* ~~duet~~ units: 4 bedroom, 2.5 bath and approx. 1815 sq. ft.**

*** The final sales price (at close of escrow) for the four moderate rate units will be based on HUD income limits for a family of 4 at the closing date.**

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COMMISSIONER BENICH SECONDED THE MOTION, NOTING THE FINDINGS AND CONDITIONS CONTAINED THEREIN. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.

At the request of the Commissioners, item 4 was taken up at this time.

NEW BUSINESS:

**4) UP-04-05:
MONTEREY-
PING'S
MONGOLIAN
BBQ**

A request for approval of a conditional use permit to allow the establishment of a 1859 sq. ft. sit-down restaurant at 16965 #102B Monterey Road in the Morgan Hill Plaza shopping center. The site is located at the southwest corner of Monterey Road and W. Dunne Avenue in the Planned Unit Development (PUD) zoning district.

AP Plambeck presented the staff report, noting that he had had communication with Commissioner Lyle regarding signage for the business. AP Plambeck explained that the Morgan Hill Plaza has an established sign program and the applicant would need to meet the requirements of the program. None of the standard conditions really address the applicant requiring to meet the standards of the existing sign program, he said; however, the Commissioners can put a requirement under "other conditions" requiring that the applicant meet the requirements of the Morgan Hill Plaza sign program.

AP Plambeck reminded that the proposed location was originally occupied by Togo's, which has ceased operation in that location. Furthermore, the operators of Togo's had never obtained a use permit. AP Plambeck referenced Municipal Code Section 18.58.040C, which states "a nonconforming use of a structure ... shall not continue if the use has ceased for six consecutive months or for twelve months of any consecutive period of 24 months". He continued by stating the business proposal of the current applicant. Given that is why more than six months since the former restaurant (Togo's) was in operation, a Use Permit for the new restaurant was required.

Chair Mueller opened the public hearing.

With no persons present noting a wish to speak to the matter, the public hearing was closed.

Commissioner Benich asked AP Plambeck about the cleanup of the patio area. AP Plambeck replied that he had spoken to the applicant and that the applicant stated he will clean the patio area and repair the fence.

COMMISSIONER BENICH OFFERED RESOLUTION NO. 04-46, WITH THE FOLLOWING MODIFICATION TO THE TITLE, APPROVING A SIT-DOWN RESTAURANT AT 16965 #102 MONTEREY ROAD AND A *MINOR EXCEPTION* APPROVING A REDUCTION IN THE NUMBER OF REQUIRED PARKING SPACES BY THIRTEEN PERCENT (13%) TO 352 PARKING SPACES IN THE MORGAN HILL PLAZA SHOPPING CENTER, WITH THE FOLLOWING MODIFICATION:

Standard Conditions; Other Conditions XIII

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(add) 5: the applicant shall meet the requirements of the Morgan Hill Plaza sign program

THE REQUIRED FINDINGS AND CONDITIONS CONTAINED IN THE RESOLUTION WERE NOTED. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLER, WESTON.

The regular order of business was resumed with the undertaking of Agenda Item 3

**3) UPA-97-08:
JOHN WILSON-
OAKWOOD
COUNTRY
SCHOOL**

A request for approval to amend the conditional use permit for the Oakwood Country School to allow for an increase in student population and expansion of the campus to include a high school curriculum. Expansion of the campus will include the construction of new athletic fields, classrooms and facilities. The subject site is approximately 22.7 acres and is located on the north side of John Wilson Way, west of Monterey Road, in a RE(100,000) zoning district.

AP Tolentino gave the staff report, with an overview of the request and a brief history of the operations. AP Tolentino said one letter had been received from a neighbor in the area which addressed concerns should the expansion be approved, including traffic, noise, parking and security.

Commissioner Escobar asked about the activation of play on the sports fields at the high school. He said the circulation plan needed to address the effect of competitive sport events.

Commissioner Lyle also had questions about traffic, asking if the study had focused on the times of school attendance travel, if the study reflected the maximum peak times? [Yes]

Chair Mueller asked about lighting on the athletic fields, stating the same conditions should be imposed for this facility as at the Live Oak High School where controls on the intensity of lighting are variable. That condition could be added to the resolution, he said.

Commissioner Acevedo questioned if two separate means of ingress/egress was an original condition of the approval.

AP Tolentino gave explanation that two separate means of ingress/egress was discussed at the time of the original application, but was not required. Since that time, both Police and Fire Departments have found access to be adequate.

PM Rowe recalled that there had been a provision that a study would be made and if access was not adequate, a second access would be added.

Chair Mueller referred to the fact that there is 'also a semi wetland situation there, and if the project had to have a second ingress/egress, all kinds of environmental issues would have been raised'. Chair Mueller suggested that evaluation be made of the potential for use of the easement the Water District has on the west side of the property, for emergency (secondary) access. Other Commissioners agreed that idea

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had merit, asking staff to appraise the proposal.

Chair Mueller opened the public hearing.

Ted Helvey, 1505 Kennebec Court, is the owner and Administrator of the school. He gave a history of the school, indicating that when he and his wife bought the operations about 1 1/2 years ago, a key factor in the purchase had been the presentation of plans for an expansion to include the High School. Mr. Helvey explained that there has been good responsiveness to the concept. Mr. Helvey then spoke at length regarding the traffic concerns, including parking. The concerns, he said, included several issues and some of the corrective actions he has taken:

- drivers cutting through area business' parking lots (speaking directly to the parents and preparing a letter regarding the issue)
- drivers making left turns out of parking lot onto John Wilson Way and failing to look to the right (signage has been placed reminding drivers to look both ways)
- drivers who encroach neighbor's driveways while dropping off students (parents required to pickup/drop off students entirely on-site)
- parking (when all students and parents are in attendance there is availability for parking on playground)
- safety (retention of a single point of entrance)

Commissioners discussed the following issues with Mr. Helvey:

- if traffic becomes a problem, consideration of differing times for the elementary and high school attendance (Mr. Helvey said this might be difficult for families, but expects to 'ramp up' enrollment during a 10-year period so can study the proposal as an option)
- potential for staggering times of events, e.g., graduation
- middle school and high school activities on different time schedules

Chair Mueller called attention to a requirement for full time security at the school, asking why this was not enforced?

Mr. Helvey explained he was not aware of the requirement, not having seen documentation of the requirement. He speculated that during construction with the use of portable buildings, security might have been an issue.

Several persons in attendance spoke in support of the application for the school's expansion:

Dick Oliver, 1556 Morning Star Dr., said he has known Mr. Helvey for many years. "I know him to be honorable, and that his word is good in working out issues," Mr. Oliver said, adding that he is familiar with the procedure for delivery of students to the school.

Mike Grallucci, 16391 Reynolds Dr., said that one thing lacking in Morgan Hill is a private high school. He offered strong support for the application.

Scott Schilling, 16060 Caputo Dr. #160, spoke to the traffic issues, comparing access to this school to Live Oak High School.

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Neighboring property owners spoke – not in opposition to the proposal, but indicating concerns with the application:

Don Hordness, 15780 Watsonville Rd, owns and operates the Royal Oaks Mushroom Farms, and said he has been on the corner since 1953. He told of the operation, expressing surprise that consideration of the farm had not been made in the staff report environmental document, as he said, “Ag is always loser when development occurs.” Mr. Hordness stressed that he is not opposing the school, adding that private education is important. Mr. Hordness said his concerns center on the potential for flooding, noting there is no mention of the house which will be moved from the school site. “The area is very nearly wetlands,” he said. “Any kind of blockage backs up water.” Mr. Hordness continued that if the applicant raises the area five feet for a house, it will back up water onto his property. “The City must address the problem,” Mr. Hordness declared. “We can’t wait for other agencies. I’m asking the City to do something about flood problems.”

Rod Braughton, 15155F Monterey (John Wilson Way), explained the location of his property in relation to school. Mr. Braughton said he has no objections, but a series of concerns, including the issues of the narrowness and parking on John Wilson Way. Stressing that he is delighted with the efficiency of the school – that it is a ‘well run operation’, there has been an impact on his property in that when students are delivered or picked up, if drivers do not turn into the school, but continue on, they make a u-turn onto his property. “If the size of campus is doubled, my property just will not support this amount of traffic,” Mr. Braughton stated. Mr. Braughton continued to speak on the issue, noting repeatedly he does not have objection to the expansion, but wants the issues of concern addressed.

Mr. Helvey introduced architect Bonnie Bridges, the original designer of the school. Ms. Bridges explained the plan for adding 126 new parking spaces, as well as plans for eventually taking part of the playground for a high school library. Ms. Bridges pointed out that there is a second entry proposed off John Wilson Way and indicating a new parking lot proposed near the termination of the paved section of John Wilson Way which would provide an additional fifty nine parking spaces.

Discussion ensued regarding the total number of needed parking spaces at build out of the school; the alternatives for lessening the disturbances and effects on neighboring property owners.

Commissioner Acevedo suggested placing a turn around totally on school property.

Chair Mueller commented that it would appear if the school has been successfully operating with respect to security, for five-plus years without incident, security has not been an issue and no police calls have been received, it would indicate there has not been a problem in the neighborhood.

PM Rowe said that he recalled the reason for the discussion regarding security at the time of the original application was that the school was so new to the area that it was unknown what security conditions might exist. He agreed that the history of the operation has not shown a problem.

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Commissioner Lyle asked if the introduction of night events might make security more of a factor? Mr. Helvey pledged that the school personnel would attend events and monitor activities, thereby increasing security at the site.

Chair Mueller opined it might be well to put in a requirement for security at special events.

Commissioners asked SE Creer to address the concerns raised in regard to flooding as they referenced the mushroom farm.

SE Creer responded to the Commissioners by commenting that he has not seen the design, but basically developers are required not to impede water flow.

Chair Mueller asked if that is true in relation to relocating the house as well. [Yes]

Chair Mueller observed that the City and the Water District are working to keep PL566 current on the design factors, so the project can move to the next phase.

Norman Wong, 255 North Market St. #200, San Jose, spoke with the Commissioners as representative of the firm that prepared the traffic study.

The circulation pattern for student delivery and pickup was explained. Mr. Wong also spoke on the issue of automobiles exiting the site and the conditions of that action.

Commissioner Lyle asked questions of Mr. Wong regarding blocking entrances to businesses on John Wilson Way, and about estimates for traffic queuing – how frequently John Wilson Way is backed up and blocked? Considerable discussion ensued regarding the queue depth on John Wilson Way. The traffic consultant claimed that the most observed had been nine vehicles.

Commissioners asked the traffic consultant questions regarding

- Potential exiting traffic at full enrollment [all activities occur within a half-hour of the end of the school day so there is opportunity for ‘flushing of traffic’]
- Peak time for school travel versus peak traffic travel time on Monterey Road [the two activities differ]
- Opportunity for left turns onto John Wilson Way without interference of traffic from Monterey
- Complaints from business owners in area regarding traffic and turning
- Need for traffic evaluation as the school development occurs
- Possible need for scheduling variations

With no others present indicating a wish to speak to the matter, the public hearing was closed.

Discussion regarding the potential for flooding was engaged.

COMMISSIONERS BENICH/ESCOBAR MOTIONED TO APPROVE THE MITIGATED NEGATIVE DECLARATION WITH THE FOLLOWING MODIFICATIONS:

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Page 3 (Transportation/Circulation):

T/C-2s.d (add) Traffic conditions to be evaluated after school opens and at full project buildout to determine if additional traffic analysis or mitigation is required, including staggering high school hours.

Page 3 (Aesthetics):

A-3 (add) outdoor lighting to have adjustable light intensity controls, similar to Live Oak High School.

THE MOTION PASSED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT, WITH ENGLES AND WESTON ABSENT.

COMMISSIONER ESCOBAR OFFERED RESOLUTION No. 04-45, WITH THE FINDINGS AND CONDITIONS CONTAINED WITHIN, APPROVING A CONDITIONAL USE PERMIT AMENDMENT TO ALLOW THE EXPANSION OF A PRIVATE SCHOOL LOCATED AT 105 JOHN WILSON WAY IN THE RE (100,000) ZONING DISTRICT TO INCLUDE HIGH SCHOOL FACILITIES AND INCREASED ENROLLMENT FOR UP TO 776 STUDENTS, WITH THE FOLLOWNG MODIFICATIONS:

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G. Other Conditions:

- (add) 5. Planning staff will evaluate potential for traffic control placement of a ‘turn around’ at the terminus of John Wilson Way or on the project site.**
- (add) 6. The Administration of the school will put into place a program to encourage parents to refrain from using nearby business locations for traffic passage, and to refrain from driving west of the campus entrance.**
- (add) 7. The Administration of the school will develop a parking management plan which may include special parking permits to ensure the viability of adequate parking, and the designation of the new 67-stall parking lot for staff parking only.**
- (add) 8. A study/evaluation is encouraged to ascertain the feasibility of placement of a secondary ingress/egress roadway off Watsonville Road, utilizing the Water District easement along the west side of the property.**
- (add) H. The previous requirement for on-site security during off-school hours will be repealed. The need for security during after school and evening events will be reviewed during the annual review of the use.**

THE MOTION WAS SECONDED BY COMMISSIONER BENICH AND CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.

**5) SD-04-07/
DA-04-02:
CENTRAL-
SOUTH COUNTY
HOUSING**

A request for subdivision and development agreement approval for an eleven lot subdivision of a 1.5 acre site located on the north east corner of the intersection of Central Ave. and McLaughlin Ave. in the R-2 3,500/RPD zoning district.

SP Linder presented the staff report saying this application represents the balance of a

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16 unit project that was first presented as a 5-lot micro project. SP Linder explained the 5-lot micro project has subdivision approval and received City Council extension of the 2000-01 building allocations to December 2004. In April 2004, the project received an addition 9 building allocations for FY 2005-06. SP Linder explained the current 11-lot request included the 9 allocations plus two existing lots. SP Linder stated the two existing lots to be retained needed to be excluded from the current subdivision proposal because they were covered by the RDSC exemption policy.

Chair Mueller called attention to page 8, Standard Conditions, XI A, noting the change from ~~shall~~ to *may be required to*.....

SP Linder indicated that this condition had been drafted by the Building Division representative.

Chair Mueller opened the public hearing.

Nancy Wright, 9015 Murray Ave., #100, Gilroy, was present representing South County Housing.

Commissioner Lyle noted that the extension for the five units expires this year.

Ms. Wright said that South County Housing plans to submit plans for all the permits in the first week of June.

Chair Mueller explained and clarified that the 9 FY 2005-06 allotment permits cannot be pulled until April 2005.

Commissioner Lyle and PM Rowe suggested to Ms. Wright that the permits could be pulled in a 'two part process'.

Ms. Wright repeated from the discussion that the grading permit can be obtained and any other 'public permits' can be finalized, but South County Housing cannot pull the permits for all nine of the permits. She emphasized the Planners did not foresee any delay on work to commence for the first seven permits.

With no others present indicating a wish to speak to the matter, Chair Mueller closed the public hearing.

COMMISSIONER LYLE OFFERED RESOLUTION NO. 04-47, APPROVING A 9-LOT MULTI-FAMILY LOW RESIDENTIAL SUBDIVISION ON A 1.5-ACRE SITE, LOCATED ON THE EAST SIDE OF McLAUGHLIN AVENUE, NORTH OF CENTRAL AVE., NOTING THE REQUIRED FINDINGS AND CONTITIONS IN THE RESOLUTION, AND INCLUDING THE FOLLOWING

MODIFICATIONS:

Standard Conditions

Building Division:

Page 8, Section XI. Site Development, A:the applicant ~~shall~~ *may be required to provide*....

Engineering Division

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Page 10, XII General, D:~~/County of Santa Clara/State of California/Santa Clara Valley Water District~~ (or) *if there is a requirement from any agency* (example – railroad) and provide....

COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.

COMMISSIONER LYLE OFFERED RESOLUTION NO. 04-48, RECOMMENDING APPROVAL OF THE DEVELOPMENT AGREEMENT APPLICATION, DA-04-02, FOR APPLICATION MP-04-01: CENTRAL-SOUTH COUNTY HOUSING, WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN AND WITH THE FOLLOWING MODIFICATION:

Exhibit "B": (first paragraph, second sentence)or a building permit ~~six (6)~~ *three (3)* or more months....

COMMISSIONER ESCOBAR SECONDED THE MOTION WHICH WAS PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.

**6) DAA-02-09:
DEWITT-
MARQUEZ/
GLUHAICH**

A request for Development Agreement Amendment approval of a 5-lot single-family residential subdivision on an existing two-acre parcel located on the west side of DeWitt Ave. approximately 700 ft. south of the DeWitt Ave. intersection with W. Dunne Ave. The amendment request would extend two building allocations for one year to March 31, 2005.

PM Rowe gave the staff report, providing the chronology for the project and noting that while the map has not been recorded, it in the plan check process.

Chair Mueller opened the public hearing.

Ascertaining that there were no persons present wishing to address the matter, Chair Mueller closed the public hearing.

NOTING THE FINDINGS AND CONDITIONS CONTAINED THEREIN, COMMISSIONER LYLE OFFERED (REVISED) RESOLUTION NO. 04-49, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-02-09, FOR APPLICATION MMP 02-02: DEWITT-MARQUEZ, TO ALLOW FOR A SIX-MONTH EXTENSION OF TIME FOR BUILDING PERMIT SUBMITTAL FOR FOUR (4) BUILDING ALLOTMENTS AWARDED IN THE 2002 RDCS COMPETITION. THE MOTION WAS SECONDED BY COMMISSIONER ACEVEDO AND CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.

Item eight was taken up at the request of the Commissioners at this time.

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OTHER BUSINESS:

8) USE DETERMINATION FOR A MEDICAL & PROFESSIONAL OFFICE USE IN THE M-L, LIGHT INDUSTRIAL DISTRICT

A request to establish a medical, dental and professional office use in the M-L, Light Industrial District at the corner of Caputo Drive and Tennant Avenue. The discussion will also address whether the City should amend the Zoning Ordinance to ensure that medical facilities are allowed within industrial zoning districts as provided under action item 17.10 of the Community Development Element of the General Plan.

PM Rowe presented the staff report, telling the Commissioners that the discussion tonight should result in direction for the suitability of having medical offices and professional uses in the City's industrial areas both for this application and for those which may be received in the future. He explained the current uses for the light industrial (M-L) district zoning areas of the City, saying the policies in current code provide inconsistencies for the request. PM Rowe gave the details of having an amendment to the M-L zoning.

Chair Mueller informed that while he does not have a conflict of interest, he does sit on the Board of the Morgan Hill Community Health ~~Commission~~ *Foundation*, as well as being on the ~~Board of Directors~~ *Ciizen's Advisory Board of Directors of O'Conner Hospital* for consultation ~~to the DePaul Hospital~~ *Health Center*.

Commissioner Lyle said he thinks a General Plan change and a Zoning change is the way to go on this matter, as he questioned the time frame for such actions?

PM Rowe said he could look into the time required.

Chair Mueller opened the public hearing.

Sylvester Heinberg, 17505 Monterey Rd, was present to represent the applicant. He explained the property is now in a trust with a three members ownership, and the trust has owned the property ever since the street of Caputo Drive was developed. The applicant has agreed to pay \$17,000 in fees for the displacement of Butterfield Channel for storm drainage capacity.. Mr. Heinberg said he worked with Planning Staff to determine the best use for the property when the zoning changed from commercial to light industrial property. "The owners have been waiting for 15 years to develop the property attractively. The rest of street has been developed for quite some time and now the owner wants approval for a nice addition to Tennant Avenue," Mr. Heinberg said.

Commissioner Lyle asked how soon the owners want to start development?

Mr. Heinberg said there is a medical doctor and a dentist who want to build and get operations going as they have others lined up (for occupancy) who have asked for medical and dental operations. He assured Commissioners that these would be doctor's offices only - not a surgery center, nor an imaging center, nor any other professional offices.

With no others wishing to speak to the matter, the public hearing was closed.

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Chair Mueller explained to Mr. Heinberg that the hearing tonight was a use determination, not an approval of the application.

Commissioner Lyle asked how soon can we anticipate a General Plan/Zoning change?

PM Rowe said the General Plan filing deadline is June with action at an October 6 City Council meeting.

Commissioners expressed concern regarding:

- the possibility of having dental specialties which could have patients under anesthetic; this could be easy to slide into another category of business unintentionally (from a business to an institutional occupancy)
- time frame it would take to amend the General Plan and Zoning.

Chair Mueller polled the Commissioners regarding the wish to change the general plan:

Lyle: in favor of changing the general plan

Benich: in favor of changing the general plan

Escobar:– if such facilities go into light industrial, it may open can of worms

Acevedo: not opposed to this type of business use - depends on type of use, may not be opposed to general surgery facilities in the zoning

Mueller: Ok, but if commercial retail is allowed, can be zoning issue

Commissioner Acevedo commented that the staff report appears to view Morgan Hill Ranch as similar to this project; he stated it look as if that staff was trying to ascertain if the Commissioners intend viewing the two projects uniformly for uses of this nature.

Commissioner Lyle, noting that the City Council has indicated interest in this type of business, asked if there is any way to speed up a General Plan change?

PM Rowe recalled there has been some effort by other applicants to have the City Council consider changes to the General Plan earlier than October. Chair Mueller urged PM Rowe to have the Planning staff expedite the matter if possible.

7) ZA-04-08: CITY OF M.H.-FINAL SUBCOMMITTEE RECOMMENDATIONS FOR CHANGES TO THE RDCE STANDARDS AND CRITERIA

A request to amend Articles I, II and II in Chapter 18.78 of the Morgan Hill Municipal Code, and amending the evaluation standards and criteria for proposed residential developments as set forth in Sections 18.78.200 through 18.78.410 of the Municipal Code.

PM Rowe gave the staff report. He called attention to Article III, item d, asking if it was the intent of the Commission to include 'liveable communities' in the micro scoring category?

Chair Mueller said that would be his preference and talked about the potential for establishing micro projects in the downtown area.

Commissioner Benich said there had been considerable discussion at the subcommittee level regarding liveable communities. Commissioner Benich also referenced the need for a table of contents for the document. He called attention to page 28 which he said could have been well served with a table of contents.

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Chair Mueller commented that there was more of a need in the project narrative file for a table of contents.

Commissioner Acevedo asked staff to look at page V-70, noting his continuing objection to the watercourses listed in the parenthesis. He said such names are limiting and those specified should be struck with reliance on the bold print as agreed at the last meeting. *By consensus, the Commissioners agreed to add the words "such as" to the water courses example in the parentheses, thereby resolving any confusion or misinterpretation.*

Chair Mueller opened the public hearing.

Rocke Garcia, 1000 Old Quarry Road, San Jose, said he has talked about the issues with the 'on-going projects' in the past. He noted his concern is that in the past he has received points for items such as the detention/retention pond, but can no longer receive those same points under this rule. If we received those ~~points~~ *allotments* in the past, he said, we shouldn't be denied them under Measure C. Mr. Garcia continued, "Those close to award may be knocked out of competition," as he asked consideration for on-going projects.

The Commissioners told Mr. Garcia this information would be better to help with decision making in agenda item 9.

Dick Oliver approached the podium to say he concurred with Mr. Garcia's statements.

Scott Schilling spoke on housing types found on page V-50.

With no others wishing to speak to the matter, Chair Mueller closed the public hearing.

COMMISSIONER BENICH OFFERED RESOLUTION NO. 04-50, APPROVING THE RECOMMENDATIONS FOR CHANGES TO THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM STANDARDS AND CRITERIA AND RECOMMENDING THOSE AMENDMENTS TO THE CITY COUNCIL, WITH MODIFICATIONS (ADDITIONS, DELETIONS, AND THOSE CHANGES RESULTANT FROM PRIOR DISCUSSIONS). REFERENCING THE FINDINGS AND CONDITIONS, COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH CARRIED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT, ENGLES AND WESTON WERE ABSENT.

**9) HOUSING
TYPE
DISTRIBUTION &
TERM FOR
FY 2004-05
MEASURE "C"
COMPETITION
(FY 2006-07 BUILD-**

PM Rowe announced that this evening the Commissioners and members of the public were encouraged to provide discussion which would result in a Resolution to be presented at the next regularly scheduled meeting. He indicated there is a need to decide whether there will be a single competition for two-years or a single year competition; minimum passing scores must be set and a decision made on set-asides for the core downtown area. PM Rowe said the Commissioners also need to consider the incorporation of the Downtown Plan into the revised General Plan.

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ING ALLOTMENT) PM Rowe told of a past practice of the competitions, mentioning the concerns the developers have raised about on-going projects.

There was discussion about the allocations already given out, small vertical mixed use projects, and the maximum number of units appropriate for Micro projects.

Chair Mueller opened the public hearing.

Scott Schilling told Commissioners he supports a one-year competition at first, then consideration of a two-year competition later.

Rocke Garcia said he would like to see how on-going projects fare in either type of competition.

Chair Mueller said there has been a suggestion that on-going projects be given minimum number of points.

Dick Oliver asked how many ongoing projects there are now? [3 or 5]

Commissioner Benich said the subcommittee had recommended dealing with on-going projects after a year of operation of the matter, as there could be a better understanding of them. Also discussed, he said, was a simplified application process for on-going projects.

With no others present to address the matter, the public hearing was closed.

Commissioner Lyle said he favored a single-year competition ~~and certainly didn't want to do a two year for downtown~~. He also suggested having an *small* open market rate *and* micro competition yearly or alternating the two. Commissioner Lyle said he would like to keep the two-year on the *large* market rate so there would not be a lot of applications *to reduce costs*. He cautioned that there have also been many changes, so there may be many projects with 'grandfathering issues'.

Strike "and certainly didn't want to do a two year". Next sen after "having a insert "small" and after "rate" insert "and". Next sentence after "on the" insert "large" and add "to reduce costs" at the end of the sentence.

Commissioner Benich was in favor of a one-year competition in view of the changes.

Commissioner Escobar expressed the need to proceed cautiously and prefers a one-year competition. "The changes are not simple," he said, "and it would be prudent for a one-year competition."

Commissioner Acevedo said a 'shake out' is needed and supported a one-year now, with further assessment after the first year.

Chair Mueller said he was leaning to a one-year now. We might have a large number of second year applications and they can get 'brutal'.

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Commissioner Escobar said from a collective perspective, a one-year might be better.

Commissioner Lyle argued for the two-year stressing time versus money.

Chair Mueller suggested phasing into the two-year competition.

Commissioners also discussed the maximum number of units for the Micro category. By a 3/2 consensus, it was decided that 10 would be the maximum number allowable.

The number(s) for Small projects and Open Market projects were discussed at length. The boundary lines downtown were deliberated. When it came to on-going projects, PM Rowe said a project should be started before it can be considered on-going. Whether to reserve or 'set-aside' units was also debated. The possibility of having vertical mixed use become part of small, and the number of units to be made available for on-going projects was examined. *The consensus of the Planning Commissioners was that a project had to have completed a phase or at least pulled 50% of the building permits for a phase by 9/30/04 in order to be considered for an on-going project set-aside.*

ANNOUNCEMENTS:

None.

ADJOURNMENT:

With no further business to come before the Commission, Chair Mueller declared the meeting adjourned at 12:15 a.m. May 12, 2004.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk

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Page 17, paragraph 7: Commissioner Acevedo commented that the staff report noted that the Morgan Hill Ranch had similar circumstances and stated it appears that staff was trying to ascertain if the Commissioners intend viewing the two project uniformly for uses of this type.